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SIPDIS

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SUBJECT: PROPOSAL WOULD GUT INDUSTRIAL PROPERTY
PROTECTION

REF: ANKARA 3027

1. (SBU) Summary. A bill abolishing penalties for infringing the industrial property rights (patents, trademarks, industrial designs and geographical indications) of goods produced outside Turkey remains on the Turkish Parliament's agenda. Embassy contacts claim that the legislation was recently sent back to the Parliament's Justice Commission not because it is in violation of the GOT's international trade and intellectual property obligations, but for procedural reasons. While the legislation is contrary to the GOT's current efforts to harmonize with the EU, as well as its obligations under TRIPS, it is possible that it will be passed during the current legislative period. End summary.

2. (SBU) On November 15, Hulya Cayli, the President of Paragon Consultancy and Trade, Inc., told econoff that a piece of proposed legislation (reftel), previously thought by many to be dead, has reemerged in Parliament and could be considered by MPs for passage in the very near future. The bill is currently slated to come out of the Parliament's Justice Commission for general debate. The proposal, tabled by an MP from the ruling AK party, would abolish penalties for infringing industrial property rights (such as patents, trademarks, industrial designs and geographical indicators) if the rightholder does not produce the good in question in Turkey.

3. (SBU) Cayli hoped to meet with the chair of the Justice Commission on November 15 to appeal for the legislation not to move to Parliament for passage. She added that the proposal violates not only Turkey's TRIPS but also EU requirements. "Even if they pass it, the government will have to rescind it at some point," she argued.

4. (SBU) Commenting on the same legislation, Hulya Cetin, a judge from the EU Affairs Department of the Ministry of Justice, told Econ Specialist that the law was sent back to the commission not because its contents contradicted with Turkey's international obligations, but because it would be faster to pass it together with a revised Patent Law, which is also at the Justice Commission. Cetin suggested that the interested international parties bring the legislation to the attention of the Parliament's EU Harmonization Commission. Cetin, too, thought the GOT would have to rescind the legislation at some point, but noted this would be a long and difficult process.

5. (SBU) Comment: There are various allegations as to why the GOT is considering legislation clearly in violation of its international trade obligations. Some claim that the legislation is designed to encourage local production, while others allege smuggling organizations are behind it. In any case, passing this legislation would negatively affect the GOT's international credibility in intellectual and industrial property protection, which the GOT has been striving to improve. We are increasingly seeing the positive impacts of training and interaction with international agencies on the Turkish bureaucracy's perception of IP issues. However, we continue to need ways to get high level decision makers, including parliamentarians, to commit to the fight against IP crimes.

McEldowney